

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

Civil No. 1:18-CV-00007-MR-DLH

TERI LYNN HINKLE,

Plaintiff,

v.

EXPERIAN INFORMATION SOLUTIONS,
INC., TRANS UNION LLC, and EQUIFAX,
INC.,

Defendants.

)
)
) **DEFENDANT TRANS UNION**
) **LLC’S RESPONSE TO**
) **PLAINTIFF’S MOTION FOR**
) **LEAVE TO FILE SUR-REPLY TO**
) **DEFENDANT’S REPLY TO**
) **PLAINTIFF’S OPPOSITION TO**
) **MOTION TO DISMISS**
)
)

COMES NOW Defendant Trans Union LLC (“Trans Union”) and files this Response to Plaintiff’s Motion for Leave to File Sur-reply to Defendant’s Reply to Plaintiff’s Opposition to Motion to Dismiss and would respectfully show the Court as follows:

PROCEDURAL HISTORY

On January 8, 2018, Plaintiff filed her Complaint. *See* D.E. # 1. On February 19, 2018, Trans Union filed its Motion to Dismiss and Memorandum in Support seeking dismissal of all of Plaintiff’s claims in this matter. *See* D.E. ## 12, 13. On February 23, 2018, Plaintiff filed her Memorandum in Opposition to Trans Union’s Motion to Dismiss. *See* D.E. # 16. On March 2, 2018, Trans Union filed its Reply in Response to Plaintiff’s Memorandum. *See* D.E. # 19.

ARGUMENT

I. Plaintiff Should Be Denied Leave To File A Sur-reply

Local Rule 7.1(e) states “[s]urreplies are neither anticipated nor allowed by this Rule, but leave of Court may be sought to file a surreply when warranted.” “Generally, sur-replies are disfavored by this Court.” *Gean v. Charlotte Mecklenburg Sch.*, No. 3:15-CV-275-RJC-DCK, 2016 U.S. Dist. LEXIS 175009, at *6 n.1 (W.D.N.C. Sep. 20, 2016). Courts “generally do not grant a party leave to file a sur-reply unless the opposing party's reply brief includes new information that

the responding party needs an opportunity to address.” *Carrasco v. N.M. Dep’t of Workforce Solutions*, 2013 U.S. Dist. LEXIS 83420, at *15 (citing *C.T. v. Liberal Sch. Dist.*, 562 F. Supp. 2d 1324, 1329 (D. Kan. 2008)).

Plaintiff’s proposed sur-reply is not helpful or necessary to a ruling on the pending Motion to Dismiss. Plaintiff does not respond to any new argument, no new information warranting a sur-reply is offered and Plaintiff continues to fail to cure the deficiencies with the Complaint.

Plaintiff submitted a redacted copy of what is purported to be her driver’s license with her proposed sur-reply. However, the image is illegible and does not establish or even provide an inference that a legible, unexpired license was ever submitted to Trans Union. To the contrary, the proposed exhibits to Plaintiff’s sur-reply support the reasonableness of Trans Union’s letter requesting proof of address because it had not been provided with acceptable documentation.

Plaintiff mischaracterizes the tone and position of Trans Union. The court should disregard such unsupported mischaracterizations. At this stage in the litigation, Trans Union is not required to present its evidence, but rather shows why Plaintiff has failed to adequately state a claim under Rules 12(b)(6) and 8. The only reason Trans Union’s reply mentioned a Georgia driver’s license was in direct response to Plaintiff’s assertion about one in her Memorandum in Opposition to Trans Union’s Motion to Dismiss. *See* D.E. # 16, ¶4.

WHEREFORE, for the foregoing reasons, Trans Union respectfully requests that Plaintiff’s Motion for Leave to File a Sur-reply be denied.

Respectfully submitted,

This the 20th day of March, 2018.

YOUNG MOORE AND HENDERSON, P.A.

BY: /s/ Kelly S. Brown

Kelly S. Brown

N.C. State Bar No. 37829

Local Civil Rule 83.1 Counsel for

Defendant Trans Union LLC

P.O. Box 31627

Raleigh, NC 27622

Telephone: (919) 782-6860

Facsimile: (919) 782-6753

Email: kelly.brown@youngmoorelaw.com

CERTIFICATE OF SERVICE

This is to certify that on March 20, 2018, a true and correct copy of the above and foregoing document has been electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following CM/ECF participants:

Autumn Hamit Patterson
ahpatterson@jonesday.com
Jones Day
2727 North Harwood Street
Dallas, TX 75201
(214) 969-2066
(214) 969-5100 Fax
and

Ashley Kamphaus Brathwaite
ashley.brathwaite@elliswinters.com
Ellis & Winters LLP
P.O. Box 33550
Raleigh, NC 27636
(919) 865-7000
(919) 865-7010 Fax
***Counsel for Experian Information
Solutions, Inc.***

Teri Lynn Hinkle
queensongbird@gmail.com
190 Mossy Creek Trail
Murphy, NC 28906
(828) 494-2007
Pro Se Plaintiff

YOUNG MOORE AND HENDERSON, P.A.

BY: /s/ Kelly S. Brown

Kelly S. Brown
N.C. State Bar No. 37829
Local Civil Rule 83.1 Counsel for
Defendant Trans Union LLC
P.O. Box 31627
Raleigh, NC 27622
Telephone: (919) 782-6860
Facsimile: (919) 782-6753
Email: kelly.brown@youngmoorelaw.com